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June 15, 2020

VIA ECF

Hon. Paul G. Gardephe, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007

Re: *Himelda Mendez v. Tapestry*
Case No. 1:19-cv-11762-PG

On consent, this action is stayed pending resolution of the appeals in the Banana Republic and Ann Taylor cases referenced herein. The parties are directed to file a joint status letter by September 1, 2020, or within a few days of a Second Circuit opinion, whichever occurs first.

SO ORDERED.

Paul G. Gardephe
United States District Judge
June 16, 2020

Dear Judge Gardephe:

We represent defendant Tapestry, Inc. (“Defendant”) in the above-referenced action. We write, with Plaintiff’s consent, to respectfully request a stay of the proceedings, including a stay of any briefing schedule on Defendant’s anticipated motion to dismiss,¹ pending the Second Circuit Court of Appeals’ review of rulings on nearly-identical motions to dismiss.

By way of brief background, within the last two months, courts in the Southern District of New York have granted motions to dismiss other cases involving substantially identical complaints (*i.e.*, complaints alleging that defendants’ gift cards are inaccessible under the Americans with Disabilities Act), including complaints brought by this same Plaintiff. See *Yovanny Dominguez v. Banana Republic, LLC*, U.S.D.C. S.D.N.Y. Case No. 1:19-cv-10171 (GHW) (“Banana Republic”); *Himelda Mendez v. Ann Taylor, Inc.*, U.S.D.C. S.D.N.Y. Case No. 1:19-cv-10625 (GHW) (“Ann Taylor”). Plaintiffs in those cases exercised their right to appeal from those rulings, and the Second Circuit has recently ordered an expedited briefing schedule in certain of those cases, indicating some intention that the Second Circuit intends to address the same issues at the core of this proceeding. Although we understand that the plaintiffs/appellants in those cases intend to ask the Second Circuit to sever those appeals and withdraw the expedited briefing schedules, the Second Circuit’s intent to rule on these same issues is inevitable and possibly imminent.

As a result, Defendant seeks, with Plaintiff’s consent, a comprehensive stay of the proceedings in this action (including the any future briefing schedule on a motion to dismiss) pending the Second Circuit’s rulings on the appeals. A stay would conserve judicial resources and permit this Court to proceed at a future date with the benefit of guidance from the Court of Appeals.

¹ Defendant filed a pre-motion letter in connection with its anticipated motion to dismiss on March 9, 2020. (Dkt. No. 7). A briefing schedule has not been set with respect for Defendant’s anticipated motion to dismiss.

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Thank you for Your Honor's consideration of this request

Respectfully submitted

/s/ Sean J. Kirby
Sean J. Kirby

cc: All counsel of record (via ECF)